

EMMA GRACE LOWE

IBLA 84-891 Decided June 18, 1985

Appeal from a decision of the Fairbanks District Office, Bureau of Land Management, rejecting mining claim recordation filings F-62778 through F-62781.

Affirmed.

1. Mining Claims: Contests -- Mining Claims: Determination of Validity -- Mining Claims: Recordation -- Rules of Practice: Appeals: Failure to Appeal

Where, following a contest hearing, certain mining claims are declared null and void for lack of discovery of a valuable mineral deposit and the claimant fails to appeal and, in essence, acquiesces in the decision over a long period of time, mining claim recordation filings for the same claims are properly rejected.

APPEARANCES: Emma Grace Lowe, Fairbanks, Alaska, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Emma Grace Lowe has appealed from a August 10, 1984, decision of the Fairbanks, Alaska, District Office, Bureau of Land Management (BLM), rejecting mining claim recordation filings for the Mohawk Association, Last Show, Little Johnnie, and Little Mary Association placer mining claims.

In its decision BLM stated:

On October 17, 1979, the Bureau of Land Management (BLM) received location notices for the above named mining claims. The filings were made in accordance with the requirements of Sec. 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744, and the regulations in 43 CFR 3833. The notices state that the claims were posted on January 14, February 15, and March 9, 1942, within protracted Sections 3 and 34, T. 2 N., R. 3 E., Fairbanks Meridian.

On May 22, 1963, the United States Department of the Interior, Office of Hearing Examiners issued a decision, United States of America v. Emma Grace Lowe, in which the above mining

claims were held to be null and void. The decision informed the contestant of the right of appeal. Because no appeal was taken, the decision is final.

Therefore, because mining claims F-62778 through F-62781 were declared null and void, they cannot be refiled according to the principal [sic] of res judicata and the recordation filings are rejected.

Furthermore, on January 21, 1972, the State of Alaska filed State Selection application F-15149 which included all of the lands within T. 2 N., R. 3 E., FM. This application further [sic] segregates the land from entry under the mining laws.

On appeal appellant attacks the veracity of the Government's witness at the 1962 hearing. She also challenges certain statements allegedly made at the hearing. Further reference is made to various memoranda which she charges contain erroneous information concerning the validity of her claims. Appellant makes other arguments; however, none of the arguments presented on appeal persuade us BLM's decision is in error.

Appellant's mining claims that are the subject of this appeal were declared null and void for lack of discovery of a valuable mineral deposit following a hearing conducted in Fairbanks, Alaska. Appellant appeared at that hearing. The decision in that case, dated May 22, 1963, extended the right of appeal. Appellant filed no appeal. Therefore, the decision became final.

[1] As we stated in Ida Mae Rose, 73 IBLA 97, 99 (1983), "a prior decision of the Department will not be overturned by this Board where the claimant has failed to appeal such decision and in essence acquiesced to the decision for a prolonged period of time." Where a party fails to appeal, the doctrine of administrative finality, the administrative equivalent of res judicata, generally bars consideration of the same issue in a later appeal. Ralph and Ruth Dickinson, 39 IBLA 258 (1979).

Appellant has provided no reasons for her failure to appeal the 1963 decision, despite the fact her statement of reasons reflects her obvious displeasure with the result in that decision. Likewise, appellant has not alleged her claims were relocated after the decision at a time when the lands were open to location.

BLM properly rejected the mining claim recordation filings for the same claims that were declared null and void in 1963. In addition, the land was segregated from mineral entry in 1972 by the filing of a State selection application.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

R. W. Mullen
Administrative Judge

